

Application No. 10/606168
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Amendment
Attorney Docket No. S63.2B-10968-US01

Remarks

This Amendment is in response to the Office Action dated June 22, 2005. Claims 1-6 and 9-33 are pending in this application. Claims 2, 3, 5, 10-16, 18, 19, 21, 22 and 26-32 have been withdrawn from consideration. The Office Action rejected claims 1, 4, 6, 17, 20, 23 and 33 under 35 USC § 102(e) over Moore (US 2004/0024444); objected to claims 24 and 25 as being dependent upon a rejected base claim; and indicated that claim 9 is allowed.

By this Amendment, claims 10, 13 and 15-17 are amended and claim 24 is cancelled. Applicants reserve the right to prosecute any relinquished subject matter in a subsequent patent application claiming priority to the immediate application. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Withdrawn Claims

The Office Action noted that withdrawn claims 10-16 depend directly or indirectly from cancelled claim 7.

Claims 10-16 were previously amended to depend directly or indirectly from claim 1 in the Amendment filed December 8, 2004. However, it appears that the amendments to the withdrawn claims were not entered. Further, Applicant's Amendment filed with RCE on June 10, 2005 did not reflect the amendments.

Applicant amends claims 10, 13, 15 and 16 herein, and claims 10-16 now depend directly or indirectly from claim 1.

Allowable Subject Matter

Applicant acknowledges the Office Action's indication of allowable subject matter in claims 9, 24 and 25. However, for the reasons set forth below, Applicant respectfully asserts that all of the claims are directed to allowable subject matter and that the application is in condition for allowance.

Claim Rejections

The Office Action rejects, under 35 USC § 102, claims 1, 4, 6, 17, 20, 23 and 33 over Moore (US 2004/0024444). These rejections are traversed with respect to claims 1, 4 and 6.

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Applicant asserts that Moore does not disclose or suggest a stent having "a first type of connector strut and a second type of connector strut...wherein the second type of connector strut spans a greater circumferential distance than the first type of connector strut," as recited in independent claim 1 and similarly recited in amended independent claim 17. Applicant notes that these limitations were included in former claim 24, now cancelled, which was objected to as being dependent upon a rejected base claim. Claim 17 is amended herein to have the limitations of former claim 24.

Moore discloses a stent having a plurality of radially expandable undulating rings 13-i, wherein adjacent rings are joined by a plurality of arcuate flex members 12-i. See paragraph 0066. The arcuate flex members 12-i have an S-shape, and adjacent arcuate flex members are mirrored. See paragraph 0070 and Fig 1.

Applicant asserts that because the adjacent arcuate flex members 12-i are mirror images of one another, by definition they span an equal circumferential distance. Moore does not disclose or suggest an arcuate flex member that spans a greater circumferential distance than another arcuate flex member.

Therefore, Applicant submits that independent claims 1 and 17 are patentable over Moore. Claims 4 and 6 depend from independent claim 1, and claims 20, 23 and 33 depend from independent claim 17. The dependent claims are patentable over Moore for at least the reasons discussed with respect to the independent claims. Accordingly, Applicant respectfully requests the withdrawal of the rejections under 35 USC § 102.

Reinstatement of Withdrawn Claims

Withdrawn claims 2, 3, 5, 10-16, 18, 19, 21, 22 and 26-32 depend directly or indirectly from independent claims that are believed to be in condition for allowance. Applicant requests that all withdrawn claims that are dependent upon allowable claims be reinstated and allowed.

Conclusion

Based on at least the foregoing amendments and remarks, Applicant respectfully submits this application is in condition for allowance. Favorable consideration and prompt

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allowance of claims 1-6, 9-23 and 25-33 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: September 26, 2005

By: 

Jeremy S. Laabs

Registration No.: 53170

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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